

AMENDED IN ASSEMBLY JUNE 30, 2005

SENATE BILL

No. 973

Introduced by Senator Kuehl

(Principal coauthors: Assembly Members Goldberg, Koretz, Laird,
and Leno)

(Coauthor: Senator Kehoe)

February 22, 2005

An act to ~~add Section 24300.3 to the Education Code, amend Section 24307 of the Education Code, to amend Sections 22771, 22775, 22818, and 22819 of, and to add Sections 21451.5, 21291.5, 21626.5, and 31760.7 to, and to repeal 22218.5, 22887, 22887.5, 22903, 22903.5, and 22929 of, the Government Code, and to amend Sections 1900, 1901, and 2351.5 of, the Probate Code, relating to domestic partners, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 973, as amended, Kuehl. Public employees' retirement: domestic partners.

(1) Under the State Teachers' Retirement System, any member retiring from service may elect to receive his or her retirement allowance pursuant to specified options. ~~Those allowances are made from the Teachers' Retirement Fund, a continuously appropriated fund. A member may make a preretirement election by filing a form with the system's office in Sacramento within 30 days of the date of signature.~~

~~This bill would entitle a retired member and his or her domestic partner to elect or change any optional retirement allowance under the system, if specified criteria are satisfied. Because moneys in the Teachers' Retirement Fund would be used for a new purpose, the bill would make an appropriation. The bill would further provide that~~

~~payments made thereto are not retroactive~~ *revise and recast those provisions to require the form include the signature of the member's spouse or domestic partner, as specified, and be received at the system's headquarters, as provided.*

~~(2) Under the The Public Employees' Retirement System, any member retiring from service may elect to receive his or her retirement allowance pursuant to specified options. Those allowances are made from the Public Employees' Retirement Fund, a continuously appropriated fund~~ *requires a court to address certain community property issues and rights under the system upon the legal separation or dissolution of marriage of a member.*

~~This bill would entitle a retired member and his or her domestic partner to elect or change any optional retirement allowance under the system, if specified criteria are satisfied. Because moneys in the Public Employees' Retirement Fund would be used for a new purpose, the bill would make an appropriation. The bill would further provide that payments made thereto are not retroactive~~ *provide that a spouse or registered domestic partner who fails to meet specified criteria are prohibited from receiving a distribution of contributions until the member separates from employment.*

~~(3)~~

The Public Employees' Retirement System defines the term surviving spouse for the purpose of providing postretirement death benefits. These benefits are funded by the Public Employees' Retirement Fund, a continuously appropriated fund. Existing law extends the rights and duties of marriage to persons registered as domestic partners on and after January 1, 2005.

This bill would provide, for purpose of the provision of certain postretirement death benefits, that a surviving domestic partner shall be treated in the same manner as a surviving spouse if the domestic partner is in a registered domestic partnership that meets specified criteria or if the retired member and his or her domestic partner, who are currently in a registered domestic partnership, sign an affidavit that makes specified statements. Because moneys in the Public Employees' Retirement Fund would be used for a new purpose, this bill would make an appropriation.

(3) The Public Employees' Medical and Hospital Care Act authorizes the Board of Administration of the Public Employees' Retirement System to contract with carriers for health benefit plans and major medical plans for employees and annuitants, as defined,

and approve other plans. The act defines domestic partnership for these purposes and provides that a domestic partner is a family member for specified purposes. The act permits certain persons are eligible to enroll their domestic partners as family members in health plans, subject to collective bargaining, as specified. The act allows an employer to require an employee or annuitant to be responsible for certain increased costs or associated with covering the domestic partner, as specified. The act permits a contracting agency to offer health benefits to domestic partners of employees and annuitants at its option. The benefits provided under the act are funded by the Public Employees' Health Care Fund, a continuously appropriated fund.

This bill would revise and recast the provisions described above in connection with the extension of the rights and duties of marriage to domestic partnerships on and after 2005. Because moneys in the Public Employees' Health Care Fund would be used for a new purpose, this bill would make an appropriation.

(4) Under the County Employees Retirement Law of 1937, any member retiring from service may elect to receive his or her retirement allowance pursuant to specified options.

This bill would entitle a retired member and his or her domestic partner to the same entitlements as described above, if specified criteria are satisfied, including providing an affidavit signed by the member and domestic partner under penalty of perjury relative to the member's service retirement effective date or disability retirement date.

By expanding the scope of an existing crime, perjury, this bill would impose a state-mandated local program.

(5) Existing law specifies the capacity of a conservatee and the powers of a conservator and, among other things, provides that a conservatee retains the capacity to marry.

This bill would expand those provisions to provide that a conservatee retains the capacity to enter into a domestic partnership, as specified.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 24307 of the Education Code is
2 amended to read:
3 24307. (a) A member who qualifies to apply for retirement
4 under Section 24201 or 24203 may make a preretirement election
5 of an option, as provided in Section 24300 without right of
6 revocation or change after the effective date of retirement, except
7 as provided in this part. The preretirement election of an option
8 shall become effective on the date a properly executed form
9 prescribed by the system ~~is signed, providing the election is~~
10 ~~received in the system's office in Sacramento within 30 days~~
11 ~~after the date of signature.~~, subject to the following:
12 (1) *The form includes the signature of the member's spouse or*
13 *registered domestic partner, if applicable, the signature is dated,*
14 *and the date of the signature is within 30 days of the member's*
15 *signature.*
16 (2) *The date the form is received at the system's headquarters*
17 *office, as established pursuant to Section 22375, is within 30*
18 *days of the date of the member's signature or within 30 days of*
19 *the date of the spouse or registered domestic partner's signature,*
20 *if applicable.*
21 (b) A member who makes a preretirement election of an
22 Option 2, Option 3, Option 4, Option 5, Option 6, or Option 7
23 may subsequently make a preretirement election of Option 8. The
24 member may retain the same option and the same option
25 beneficiary as named in the prior preretirement election, as an
26 option under Option 8.
27 (c) Upon the member's death prior to the effective date of
28 retirement, the beneficiary who was designated under the option
29 elected and who survives shall receive an allowance calculated
30 under the option, under the assumption that the member retired
31 for service pursuant to Chapter 27 (commencing with Section
32 24201) on the date of death. The payment of the allowance to the
33 option beneficiary shall be in lieu of the family allowance
34 provided in Section 23804, the payment provided in paragraph
35 (1) of subdivision (a) of Section 23802, the survivor benefit

1 allowance provided in Section 23854, and the payment provided
2 in subdivisions (a) and (b) of Section 23852, except that if the
3 beneficiary dies before all of the member's accumulated
4 retirement contributions are paid, the balance, if any, shall be
5 paid to the estate of the person last receiving or entitled to
6 receive the allowance. The accumulated annuity deposit
7 contributions and the death payment provided in Sections 23801
8 and 23851 shall be paid to the beneficiary in a lump sum.

9 (d) If the member subsequently retires for service, and the
10 elected option has not been canceled pursuant to Section 24309,
11 a modified service retirement allowance computed under Section
12 24300 and the option elected shall be paid.

13 (e) The amount of the service retirement allowance prior to
14 applying the option factor shall be calculated as of the earlier of
15 the member's age at death before retirement or age on the last
16 day of the month in which the member requested service
17 retirement be effective. The modification of the service
18 retirement allowance under the option elected shall be based on
19 the ages of the member and the beneficiary designated under the
20 option, as of the date the election was signed.

21 (f) A member who terminates the service retirement allowance
22 pursuant to Section 24208 shall not be eligible to file a
23 preretirement election of an option until one calendar year
24 elapses from the date the allowance is terminated.

25 (g) The system shall inform members who are qualified to
26 make a preretirement election of an option, through the annual
27 statements of account, that the election of an option can be made.

28 (h) This section shall become operative on January 1, 2000.

29 ~~SECTION 1. Section 24300.3 is added to the Education~~
30 ~~Code, to read:~~

31 ~~24300.3. (a) A retired member and his or her domestic~~
32 ~~partner shall be entitled to elect or change any optional~~
33 ~~retirement allowance pursuant to this chapter, if all of the~~
34 ~~following criteria are satisfied:~~

35 ~~(1) The retired member and domestic partner are currently~~
36 ~~registered as domestic partners with the Secretary of State, and~~
37 ~~provide a copy of their Certificate of Registered Domestic~~
38 ~~Partnership to the retirement system;~~

39 ~~(2) The retired member and domestic partner sign an affidavit~~
40 ~~stating that at the time prescribed by the retirement system for~~

~~1 married spouses to elect an option, the member and partner
2 would have qualified to be registered as domestic partners
3 pursuant to Section 297 of the Family Code, and would have
4 registered their partnership had state domestic partnership
5 registration existed.~~

~~6 (3) The retired member demonstrates that any two of the
7 following were true at the time prescribed by the retirement
8 system for married spouses to elect an option:~~

~~9 (A) Domestic partnership registration prior to the system's
10 election date with any other foreign, state, or local government.~~

~~11 (B) Joint ownership of real property or an automobile.~~

~~12 (C) Joint ownership of a bank account.~~

~~13 (D) Joint signers on a lease for a residence.~~

~~14 (E) Utilities bill accounts at same residence were held in both
15 names, either separately or jointly.~~

~~16 (4) In lieu of one of the criteria under paragraph (3), the retired
17 member provides a signed affidavit from a person who knew the
18 retired member and partner at the time of the retirement system's
19 election date stating that the couple shared a common residence
20 and would have met the qualifications of Section 297 of the
21 Family Code at that time.~~

~~22 (b) The retirement system has no obligation to locate or
23 otherwise contact retired members who may qualify for
24 allowances under the terms of this section.~~

~~25 (c) Qualification under this section of domestic partners to
26 receive allowances shall be prospective only. Domestic partners
27 who qualify to receive prospective payment of an allowance shall
28 not be eligible to recover payment retroactively for any period
29 between the retired member's retirement date and the date of
30 qualification under this section.~~

~~31 (d) After the retirement system receives documentation from
32 the retired member demonstrating that the member and his or her
33 domestic partner qualify for allowances, the system has 60 days
34 to verify documentation and initiate benefits or benefit status.~~

~~35 SEC. 2. Section 21451.5 is added to the Government Code, to
36 read:~~

~~37 21451.5. (a) A retired member and his or her domestic
38 partner shall be entitled to elect or change any optional
39 retirement allowance pursuant to this article, if all of the
40 following criteria are satisfied:~~

1 ~~(1) The retired member and domestic partner are currently~~
2 ~~registered as domestic partners with the Secretary of State, and~~
3 ~~provide a copy of their Certificate of Registered Domestic~~
4 ~~Partnership to the retirement system.~~

5 ~~(2) The retired member and domestic partner sign an affidavit~~
6 ~~stating that at the time prescribed by the retirement system for~~
7 ~~married spouses to elect an option, the member and partner~~
8 ~~would have qualified to be registered as domestic partners~~
9 ~~pursuant to Section 297 of the Family Code, and would have~~
10 ~~registered their partnership had state domestic partnership~~
11 ~~registration existed.~~

12 ~~(3) The retired member demonstrates that any two of the~~
13 ~~following were true at the time prescribed by the retirement~~
14 ~~system for married spouses to elect an option:~~

15 ~~(A) Domestic partnership registration prior to the system's~~
16 ~~election date with any other foreign, state, or local government.~~

17 ~~(B) Joint ownership of real property or an automobile.~~

18 ~~(C) Joint ownership of a bank account.~~

19 ~~(D) Joint signers on a lease for a residence.~~

20 ~~(E) Utilities bill accounts at same residence were held in both~~
21 ~~names, either separately or jointly.~~

22 ~~(4) In lieu of one of the criteria under paragraph (3), the retired~~
23 ~~member provides a signed affidavit from a person who knew the~~
24 ~~retired member and partner at the time of the retirement system's~~
25 ~~election date stating that the couple shared a common residence~~
26 ~~and would have met the qualifications of Section 297 of the~~
27 ~~Family Code at that time.~~

28 ~~(b) The retirement system has no obligation to locate or~~
29 ~~otherwise contact retired members who may qualify for~~
30 ~~allowances under the terms of this section.~~

31 ~~(c) Qualification under this section of domestic partners to~~
32 ~~receive allowances shall be prospective only. Domestic partners~~
33 ~~who qualify to receive prospective payment of an allowance shall~~
34 ~~not be eligible to recover payment retroactively for any period~~
35 ~~between the retired member's retirement date and the date of~~
36 ~~qualification under this section.~~

37 ~~(d) After the retirement system receives documentation from~~
38 ~~the retired member demonstrating that the member and his or her~~
39 ~~domestic partner qualify for allowances, the system has 60 days~~
40 ~~to verify documentation and initiate benefits or benefit status.~~

1 *SEC. 2. Section 21291.5 is added to the Government Code, to*
2 *read:*

3 *21291.5. Notwithstanding any other provision of this article,*
4 *a spouse or registered domestic partner who is not an alternate*
5 *payee, as defined in Section 414(p)(8) of the Internal Revenue*
6 *Code (25 U.S.C. 401 et. seq.) shall not receive a distribution of*
7 *contributions until the member separates from employment.*

8 *SEC. 3. Section 21626.5 is added to the Government Code, to*
9 *read:*

10 *21626.5. For purposes of Sections 21624, 21626, 21627,*
11 *21629, or 21630, a surviving domestic partner shall be treated in*
12 *the same manner as a surviving spouse if either:*

13 *(a) The domestic partnership was registered for one year prior*
14 *to the member's service retirement date or at the disability*
15 *retirement date and continuously until the date of the member's*
16 *death.*

17 *(b) The member retired prior to January 1, 2006, and both the*
18 *member and his or her domestic partner, who currently are in a*
19 *state-registered domestic partnership, sign an affidavit stating*
20 *that, at the time prescribed by the retirement system for married*
21 *spouses to qualify to elect an option, the member and the*
22 *domestic partner would have qualified to be registered as*
23 *domestic partners pursuant to Section 297 of the Family Code.*

24 *SEC. 4. Section 22771 of the Government Code is amended to*
25 *read:*

26 *22771. A "domestic partnership" means either of the*
27 *following:*

28 *(a) Two people who meet all of the criteria set forth in Section*
29 *297 or 299.2 of the Family Code.*

30 *(b) Two people who meet all of the criteria of a domestic*
31 *partnership, as defined by the governing board of a contracting*
32 *agency, if the contracting agency adopted that definition prior to*
33 *January 1, 2000.*

34 *SEC. 5. Section 22775 of the Government Code is amended to*
35 *read:*

36 *22775. "Family member" means ~~any of the following:~~*

37 ~~*(a) An employee's or annuitant's spouse or domestic*~~
38 ~~*partner and any unmarried child, including an adopted child, a*~~
39 ~~*stepchild, or recognized natural child. The board shall, by*~~

1 regulation, prescribe age limits and other conditions and
2 limitations pertaining to unmarried children.

3 ~~(b) Notwithstanding any other provision of law, a domestic~~
4 ~~partner of an employee or annuitant shall be considered a family~~
5 ~~member for purposes of Section 22810, subdivision (a) of~~
6 ~~Section 22814, Sections 22822, 22830, 22837, 22841, 22842,~~
7 ~~22843, 22844, subdivision (a) of Section 22846, and Sections~~
8 ~~22847, 22863, 22871, 22879, 22890, 22911, and 22937.~~

9 *SEC. 6. Section 22818 of the Government Code is amended to*
10 *read:*

11 22818. (a) The following persons are eligible to enroll their
12 domestic partner as a family member in a health benefit plan:

13 (1) ~~Employees of a contracting agency that has amended its~~
14 ~~contract with the board to elect to provide health care coverage to~~
15 ~~the domestic partners of its employees and annuitants, pursuant~~
16 ~~to Section 22929.~~

17 (2) ~~State employees who are members of a bargaining unit or~~
18 ~~are retired from a bargaining unit if there is a signed~~
19 ~~memorandum of understanding between the state and the~~
20 ~~recognized employee organization to adopt the benefits accorded~~
21 ~~under this section, and the Department of Personnel~~
22 ~~Administration makes this section simultaneously applicable to~~
23 ~~all eligible annuitants retired from the bargaining unit.~~

24 (3) ~~Members of the system who are employed by the~~
25 ~~Assembly, the Senate, or the California State University, only if~~
26 ~~the Assembly Committee on Rules, the Senate Committee on~~
27 ~~Rules, or the Board of Trustees of the California State~~
28 ~~University, respectively, makes this section applicable to its~~
29 ~~employees.~~

30 (4) ~~Members of the system who are state employees of the~~
31 ~~judicial branch, and judges and justices who are members of the~~
32 ~~Judges' Retirement System or the Judges' Retirement System II,~~
33 ~~if the Judicial Council makes this section applicable to those~~
34 ~~persons.~~

35 (5) ~~Employees excluded from the Ralph C. Dills Act (Chapter~~
36 ~~10.3 (commencing with Section 3512) of Division 4 of Title 1)~~
37 ~~upon adoption by the Department of Personnel Administration of~~
38 ~~regulations to implement employee benefits under this section for~~
39 ~~those persons. Regulations adopted or amended pursuant to this~~
40 ~~paragraph are not subject to review and approval by the Office of~~

~~Administrative Law pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) and shall become effective immediately upon filing with the Secretary of State.~~

~~(b) In order to receive any benefit provided by this part, an employee or annuitant shall provide, upon request of the board all, any of the following:~~

~~(1) Proof in a manner designated by the board that the employee or annuitant and his or her domestic partner have filed a valid Declaration of Domestic Partnership pursuant to Section 298.5 of the Family Code or have established a valid domestic partnership, as defined by his or her contracting agency in accordance with subdivision (b) of Section 22771.~~

~~(2) A marriage certificate. A~~

~~(3) A signed statement indicating that the employee or annuitant agrees that he or she may be required to reimburse the employer, the health benefit plan, and the system for any expenditures made for medical claims, processing fees, administrative expenses, and attorney's fees on behalf of the domestic partner family member, if any of the submitted documentation is found to be incomplete, inaccurate, or fraudulent.~~

~~(e)~~

~~(b) The employee or annuitant shall notify the employer or the board when a marriage is dissolved or a domestic partnership has terminated, as required by subdivision (c) of Section 299 of the Family Code, or as required by his or her contracting agency in accordance with subdivision (b) of Section 22771.~~

~~SEC. 7. Section 22818.5 of the Government Code is repealed.~~

~~22818.5. (a) A domestic partner shall be considered a family member for purposes of becoming an annuitant pursuant to Section 22760.~~

~~(b) A child of the surviving domestic partner who was eligible for enrollment in a health benefit plan as a family member prior to the death of the employee or annuitant shall be eligible for health coverage under this part as a family member if the surviving domestic partner is enrolled in a health benefit plan.~~

~~(c) A surviving domestic partner of a deceased employee or annuitant may not enroll additional family members in a health benefit plan.~~

1 *SEC. 8. Section 22819 of the Government Code is amended to*
2 *read:*

3 22819. (a) A family member of a deceased employee of a
4 contracting agency who is validly enrolled or is eligible for
5 enrollment hereunder on the date of the employee's death is
6 deemed to be an annuitant under Section 22760, pursuant to
7 regulations prescribed by the board. ~~A domestic partner may not~~
8 ~~become an annuitant pursuant to this section.~~

9 (b) A contracting agency shall remit the amounts required
10 under Section 22901 as well as the total amount of the premium
11 required from the employer and enrollees hereunder in
12 accordance with regulations of the board. Enrollment of the
13 annuitant and eligible family members shall be continuous
14 following the death of the employee, or the effective date of
15 enrollment, so long as the surviving family members meet the
16 eligibility requirements of Section 22775 and regulations
17 pertinent thereto. Failure to timely pay the required premiums
18 and costs or the cancellation of coverage by the annuitant shall
19 terminate coverage without the option to reenroll. The
20 contracting agency may elect to require the family members to
21 pay all or any part of the employer premium for enrollment.

22 (c) This section shall apply to a contracting agency only upon
23 the filing with the board of a resolution of its governing board
24 electing to be subject to this section.

25 *SEC. 9. Section 22887 of the Government Code is repealed.*

26 ~~22887. An employer may require an employee or annuitant or~~
27 ~~his or her domestic partner to be financially responsible for any~~
28 ~~increased cost of covering the domestic partner that exceeds the~~
29 ~~employer contribution rate that otherwise would have been paid.~~

30 *SEC. 10. Section 22887.5 of the Government Code is*
31 *repealed.*

32 ~~22887.5. Notwithstanding any other provision of law, this~~
33 ~~part may not be construed to extend any vested rights to a~~
34 ~~domestic partner of an employee or annuitant, or be construed to~~
35 ~~limit the right of the Legislature to subsequently modify or repeal~~
36 ~~any provision of this part.~~

37 *SEC. 11. Section 22903 of the Government Code is repealed.*

38 ~~22903. An employer may require an employee or annuitant or~~
39 ~~his or her domestic partner to be financially responsible for any~~

1 ~~increased cost of covering the domestic partner that exceeds the~~
2 ~~employer contribution rate that otherwise would have been paid.~~

3 *SEC. 12. Section 22903.5 of the Government Code is*
4 *repealed.*

5 ~~22903.5. Notwithstanding any other provision of law, this~~
6 ~~part may not be construed to extend any vested rights to a~~
7 ~~domestic partner of an employee or annuitant, or be construed to~~
8 ~~limit the right of the Legislature to subsequently modify or repeal~~
9 ~~any provision of this part.~~

10 *SEC. 13. Section 22929 of the Government Code is repealed.*

11 ~~22929. (a) A contracting agency may, at its option, offer~~
12 ~~health benefits pursuant to this part, to the domestic partners of~~
13 ~~its employees and annuitants.~~

14 ~~(b) The contracting agency shall notify the board, in the~~
15 ~~manner prescribed, that it is electing to provide health coverage~~
16 ~~through this part to the domestic partners of its employees and~~
17 ~~annuitants.~~

18 ~~(c) The contracting agency shall provide any information~~
19 ~~deemed necessary by the board to determine eligibility under this~~
20 ~~part.~~

21 ~~SEC. 3.—~~

22 *SEC. 14. Section 31760.7 is added to the Government Code,*
23 *to read:*

24 ~~31760.7. (a) A retired member and, in order to provide for~~
25 ~~his or her domestic partner, shall be entitled to elect or change~~
26 ~~any optional retirement allowance pursuant to this article, if all of~~
27 ~~the following criteria are satisfied:~~

28 ~~(1) The member retired on or before January 1, 2006.~~

29 ~~(2) At retirement the member elected one of the optional~~
30 ~~settlements specified in this article naming his or her domestic~~
31 ~~partner as beneficiary.~~

32 ~~(3) At the time of election under this section, the retired~~
33 ~~member and domestic partner are currently registered as~~
34 ~~domestic partners with the Secretary of State, and provide a copy~~
35 ~~of their Certificate of Registered Domestic Partnership to the~~
36 ~~retirement system.~~

37 ~~(2)~~

38 ~~(4) The retired member and domestic partner sign an affidavit~~
39 ~~under penalty of perjury stating that at the time prescribed by the~~
40 ~~retirement system for married spouses to elect an option, at least~~

1 *one year prior to the member's service retirement effective date*
2 *or at the disability retirement date the member and partner would*
3 *have qualified to be registered as domestic partners pursuant to*
4 *Section 297 of the Family Code, and would have registered their*
5 *partnership had state domestic partnership registration existed.*

6 ~~(3) The retired member demonstrates that any two of the~~
7 ~~following were true at the time prescribed by the retirement~~
8 ~~system for married spouses to elect an option:~~

9 ~~(A) Domestic partnership registration prior to the system's~~
10 ~~election date with any other foreign, state, or local government.~~

11 ~~(B) Joint ownership of real property or an automobile.~~

12 ~~(C) Joint ownership of a bank account.~~

13 ~~(D) Joint signers on a lease for a residence.~~

14 ~~(E) Utilities bill accounts at same residence were held in both~~
15 ~~names, either separately or jointly.~~

16 ~~(4) In lieu of one of the criteria under paragraph (3), the retired~~
17 ~~member provides a signed affidavit from a person who knew the~~
18 ~~retired member and partner at the time of the retirement system's~~
19 ~~election date stating that the couple shared a common residence~~
20 ~~and would have met the qualifications of Section 297 of the~~
21 ~~Family Code at that time.~~

22 (b) The retirement system has no obligation to locate or
23 otherwise contact retired members who may qualify for
24 allowances under the terms of this section.

25 ~~(e) Qualification under this section of domestic partners to~~
26 ~~receive allowances shall be prospective only. Domestic partners~~
27 ~~who qualify to receive prospective payment of an allowance shall~~
28 ~~not be eligible to recover payment retroactively for any period~~
29 ~~between the retired member's retirement date and the date of~~
30 ~~qualification under this section.~~

31 ~~(d) After the retirement system receives documentation from~~
32 ~~the retired member demonstrating that the member and his or her~~
33 ~~domestic partner qualify for allowances, the system has 60 days~~
34 ~~to verify documentation and initiate benefits or benefit status.~~

35 (c) *Notwithstanding any other provision of this chapter, if a*
36 *retired member elects to change his or her retirement election*
37 *pursuant to this section, the member's allowance shall be*
38 *adjusted prospectively only. The adjusted retirement allowance*
39 *shall be effective on the first day of the month following receipt*
40 *of the member's signed election. The member shall not be*

1 *eligible to recover payment retroactively for any period between*
2 *his or her retirement effective date and the date of election under*
3 *this section.*

4 *(d) This section does not apply to members who are required*
5 *to provide a continuing benefit to a former spouse pursuant to*
6 *court order.*

7 *(e) The right of a member to make an election pursuant to this*
8 *section shall expire on January 1, 2007.*

9 *SEC. 15. Section 1900 of the Probate Code is amended to*
10 *read:*

11 1900. The appointment of a conservator of the person or
12 estate or both does not affect the capacity of the conservatee to
13 marry *or to enter into a registered domestic partnership.*

14 *SEC. 16. Section 1901 of the Probate Code is amended to*
15 *read:*

16 1901. (a) The court may by order determine whether the
17 conservatee has the capacity to enter into a valid marriage, as
18 provided in Part 1 (commencing with Section 300) of Division 3
19 of the Family Code, *or to enter into a registered domestic*
20 *partnership, as provided in Section 297 of the Family Code,* at
21 the time the order is made.

22 (b) A petition for an order under this section may be filed by
23 the conservator of the person or estate or both, the conservatee,
24 any relative or friend of the conservatee, or any interested person.

25 (c) Notice of the hearing on the petition shall be given for the
26 period and in the manner provided in Chapter 3 (commencing
27 with Section 1460) of Part 1.

28 *SEC. 17. Section 2351.5 of the Probate Code is amended to*
29 *read:*

30 2351.5. (a) Subject to subdivision (b):

31 (1) The limited conservator has the care, custody, and control
32 of the limited conservatee.

33 (2) The limited conservator shall secure for the limited
34 conservatee—~~such~~ *those* habilitation or treatment, training,
35 education, medical and psychological services, and social and
36 vocational opportunity as appropriate and as will assist the
37 limited conservatee in the development of maximum self-reliance
38 and independence.

39 (b) A limited conservator does not have any of the following
40 powers or controls over the limited conservatee unless—~~such~~ *those*

1 powers or controls are specifically requested in the petition for
2 appointment of a limited conservator and granted by the court in
3 its order appointing the limited conservator:

4 (1) To fix the residence or specific dwelling of the limited
5 conservatee.

6 (2) Access to the confidential records and papers of the limited
7 conservatee.

8 (3) To consent or withhold consent to the marriage of, *or the*
9 *entrance into a registered domestic partnership by*, the limited
10 conservatee.

11 (4) The right of the limited conservatee to contract.

12 (5) The power of the limited conservatee to give or withhold
13 medical consent.

14 (6) The limited conservatee's right to control his or her own
15 social and sexual contacts and relationships.

16 (7) Decisions concerning the education of the limited
17 conservatee.

18 (c) Any limited conservator, the limited conservatee, or any
19 relative or friend of the limited conservatee may apply by
20 petition to the superior court of the county in which the
21 proceedings are pending to have the limited conservatorship
22 modified by the elimination or addition of any of the powers
23 which must be specifically granted to the limited conservator
24 pursuant to subdivision (b). The petition shall state the facts
25 alleged to establish that the limited conservatorship should be
26 modified. The granting or elimination of ~~such~~ *those* powers is
27 discretionary with the court. Notice of the hearing on the petition
28 shall be given for the period and in the manner provided in
29 Chapter 3 (commencing with Section 1460) of Part 1.

30 (d) The limited conservator or any relative or friend of the
31 limited conservatee may appear and oppose the petition. The
32 court shall hear and determine the matter according to the laws
33 and procedures relating to the trial of civil actions, including trial
34 by jury if demanded. If any of the powers which must be
35 specifically granted to the limited conservator pursuant to
36 subdivision (b) are granted or eliminated, new letters of limited
37 conservatorship shall be issued reflecting the change in the
38 limited conservator's powers.

39 *SEC. 18. No reimbursement is required by this act pursuant*
40 *to Section 6 of Article XIII B of the California Constitution*

1 *because the only costs that may be incurred by a local agency or*
2 *school district will be incurred because this act creates a new*
3 *crime or infraction, eliminates a crime or infraction, or changes*
4 *the penalty for a crime or infraction, within the meaning of*
5 *Section 17556 of the Government Code, or changes the definition*
6 *of a crime within the meaning of Section 6 of Article XIII B of the*
7 *California Constitution.*

O